

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DEMARIANO FAGAIRO,

Petitioner,

- against -

THE PEOPLE OF THE STATE OF NEW
YORK,

Respondent.
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04 Civ. 2763 (TPG)

OPINION

<p>USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>8/6/09</u></p>
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In an opinion dated May 11, 2009, this Court denied the application of petitioner DeMariano Fagairo for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In a letter dated June 4, 2009, Fagairo moved for reconsideration pursuant to Fed. R. Civ. P. 60(b).

Petitioner's motion for reconsideration should be denied.

DISCUSSION

A motion for reconsideration under Rule 60(b) must be based on one of the following grounds: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that could not have been discovered in time to move for a new trial; (3) fraud, misrepresentation, or misconduct by the adverse party; (4) the judgment is void; (5) the judgment is satisfied, released, or discharged, or a prior judgment on

which it was based has been vacated; or (6) any other reason that justifies relief. Fed. R. Civ. P. 60(b).

Petitioner has failed to present any information that would indicate that the dismissal of his case on the merits resulted from mistake or oversight, or that any of the aforementioned grounds are satisfied. Petitioner's motion is therefore denied.

CONCLUSION

For the above reasons, petitioner's motion for reconsideration is denied.

Dated: New York, New York
August 5, 2009

SO ORDERED

A handwritten signature in black ink, reading "Thomas P. Griesa", written over a horizontal line.

Thomas P. Griesa
U.S.D.J.